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McFARLAND, T. F.

Moral insanity and transient mania. Jacksonville, Ill., 1873.

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MORAL INSANITY
AND
TRANSIENT MANIA,

INCLUDING

THEIR MEDICO-LEGAL RELATIONS,

BY

T. FLETCHER M'FARLAND, M. D.,

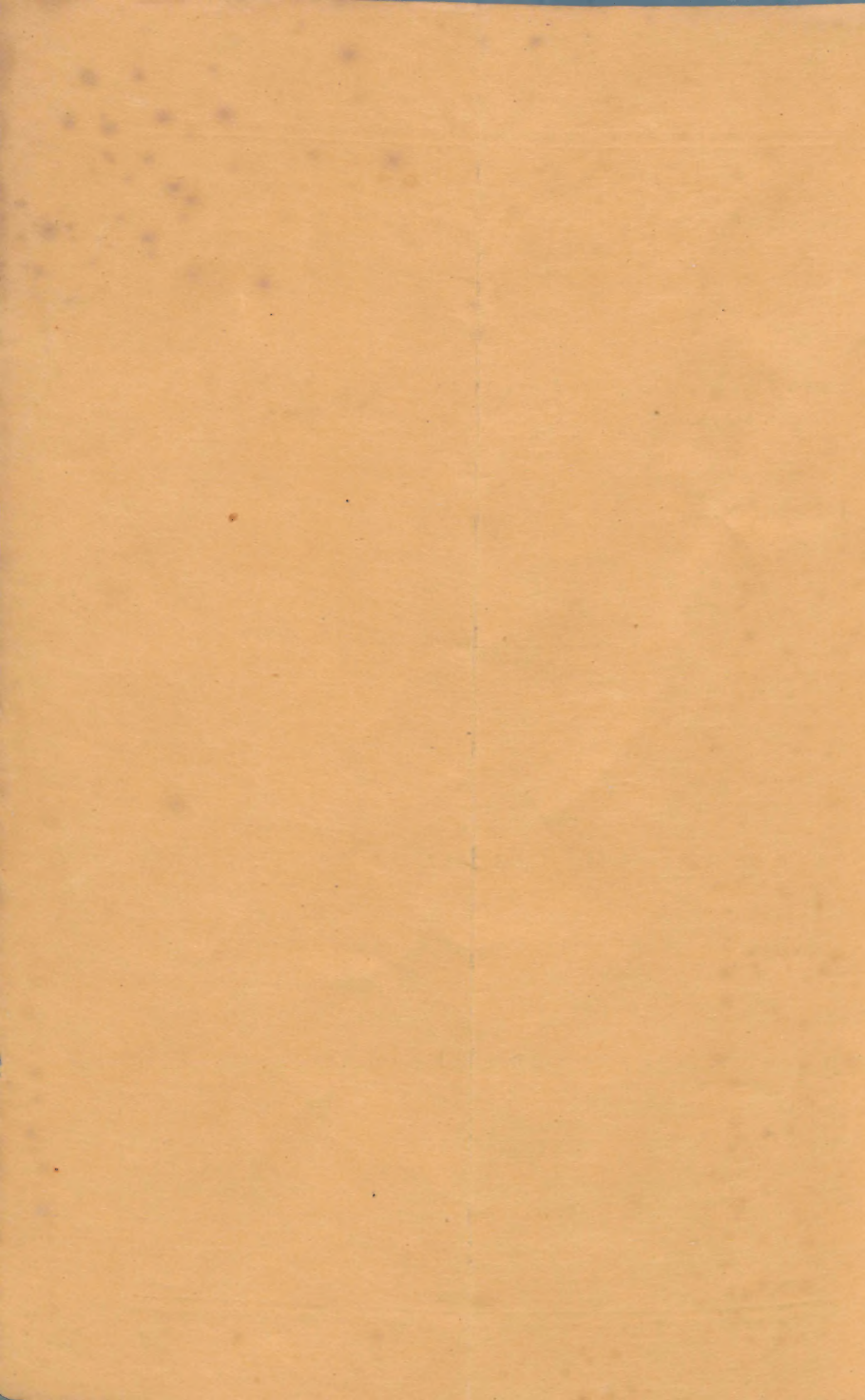
OF

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TO

PROF. J. ADAMS ALLEN, M. D., LL. D.,

Professor of Principles and Practice of Medicine at Rush Medical College,
Chicago.



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Moral Insanity and Transient Mania.

The frequency with which the plea of insanity has of late been resorted to, with undeserved success, to avoid responsibility for crime—the irregular, unscientific, and generally unfair manner in which such trials are conducted with regard to medical testimony—the danger of a more unenlightened, misguided, reactionary movement, to the peril of the really insane—the ends of justice and the welfare of society, all seem to call for reform in the law relating to the trial of criminal cases in which the mental condition of the accused is involved.

We need not stop to consider the disparaging comments, which, in a few rare instances, have been uttered, even from the bench, in both England and the United States, upon the testimony of medical experts. Still less worthy of notice are the jeers of the criminal lawyer, whose inflated words scarcely outlive their echoes, and who sometimes seeks to conceal by ridicule the parts of his cause which he is unable to support by evidence.

As the sciences of law and medicine advance, the more will the latter be called in aid of the former, in all cases involving medical questions. When Lord Hale influenced the verdict of a jury by the avowal of his belief in “such creatures as witches,” and sentenced two women to be hung, who were accordingly executed for the crime of witchcraft—when insanity was regarded as a demoniacal possession instead of a disease—the testimony of

medical experts was less sought and less repeated than it is now.

Although moral or psychical causes may produce the physical condition on which it depends, insanity is the result of some physical disease, change or defect, as much as is the dyspnoea of asthma or the involuntary motion of chorea. Instruction in its causes, nature, and treatment are a part of the professional education of the regular physician, as much as is his knowledge of any of the diseases with which man is afflicted.

In our physical life the mind is dependent on physical organization for its development and action. It has its anatomy, physiology, and pathology. Its special organ is the brain, the most complex and delicate of organized structures. This organ has its essential auxiliary in the senses, through which it receives impressions from without, and by which the mind within is endowed with a consciousness of external nature.

A knowledge of the nature of mind is beyond the reach of the finite understanding. The profound and subtle logic of Herbert Spencer fails to grasp it, and all metaphysical attempts to explain it leave us in confusion and darkness. Mere science can neither comprehend it nor pursue its existence or condition beyond its connection with the body. It is only its mode of action, in its somatic relations, which comes within the province of medical study and research. The conflicting opinions of mental physiologists arise from an attempt to explain the nature of mind, and *not* from any dispute that the brain, with its nervous connections, is the organ by which its action is manifested.

Among the most eminent and learned physiologists there seem to be two pretty distinct theories advocated regarding the connection between the mind and the body.

One class of physiologists holds that the will, or some mental force which is purely the attribute of the soul,

directs the mental action of the brain. The brain is the necessary instrument of our mental operations, which receives impressions from without, elaborates ideas, and gives expression to intelligence and emotion, as the telegrapher's apparatus develops the electric energy, receives impressions, and intelligibly expresses them. The operator represents the higher mental principle, the ego or will (Van der Kolk.) Yet he is unable to evoke and apply the energy, and to receive and give expression to his message, without the means of the material apparatus; and the instrument is equally incapable of performing its office without the higher directing power of the operator. This view of the relation between force and matter is illustrated by Faraday, in his philosophy of vital force.

Hence we see that though the inexplicable immortal ego, or higher principle of mind, exists, it can manifest itself, during man's finite existence, only through or by means of the physical organism with which the law of an all-wise Creator holds it in inseparable connection; and it can manifest itself, or direct the natural forces of the mind, only according to the condition of the organic means of action—feebly in the deficient, powerfully in the perfect, and in an irregular, deranged manner in the disordered organization.

The other class of physiologists do not recognize a dualism of force and matter. They hold that mind is the product of the action and development of the brain—"an organized result, matured by insensible degrees in the course of life." Professor Austin Flint, Jr., in his work on the nervous system, thus plainly stated his views, which clearly distinguish him from the class first noticed. He says, "the brain is not, strictly speaking, the organ of the mind; for this statement would imply that the mind exists as a force independently of the brain; but the mind is produced by the brain; and in-

tellectual force, if we may term the intellect a force, can be produced only by the transmutation of a certain amount of matter."

While, therefore, there is a difference of opinion among the foremost of the medical profession as to the exact relation between the mind and the body, all agree that the mind is dependent on the brain and its sensory and nervous auxiliaries for its development, efficient action and manifestation during the finite life. Whether above this organized source of mind there is a higher, independently acting, directory force, is a metaphysical question, or rather a matter of belief, which no physiological investigation can reach.

It is now satisfactorily demonstrated and generally acknowledged, that the gray cortex of the cerebral hemispheres is the seat of the mental faculties. At the base of the brain are the sensory ganglia, possessed by the lower animals as well as by man, which receive, but have not the power of retaining, impressions from the external world. Above these sensory ganglia, never developed in the lower animals as in man, are the cerebral hemispheres, with their deep sulci and numerous convolutions. In the gray substance of these convolutions are layers of innumerable nerve-cells. Now the sensory ganglia, at the base of the brain, which receive impressions from without but never retain them, are connected with the nerve-cells of the hemispheres by fine medullary fibres, whose function undoubtedly it is, to take up the fleeting impressions from the sensory nerve-centers to the supreme nerve-centers, where they are retained. Thus what we see, and hear, and feel, if recognized by the supreme nerve-cells, is preserved, compared, and arranged, and elaborated into definite ideas. These nerve-cells of the cerebral hemispheres are the "nervous centres of ideas" (Maudsley); or, more comprehensively, of the mind, including the intellect and

the emotions or feelings, and the executive functions of volition.

Conductive medullary fibres also connect the supreme nervous centers with each other, thus giving them the power of reaction upon each other and securing the co-ordination of the whole. A kind word does not create a pleasurable emotion until the intellect comprehends the quality of the word; and an insulting speech cannot arouse the emotion of anger until intelligence discerns the offensive character of the speech. On the other hand, from this intimate connection and mutual reaction, the intellect derives force, earnestness, and warmth of expression from the emotions. Its faculties thus autom-*atically* united, the mind is physiologically a unit.

It is extremely doubtful that insanity can exist without an affection, idiopathic or sympathetic, of the nervous centers of the hemispheres of the brain. For instance, suppose the sensory ganglia to be diseased. The result would be hallucination of some one or more of the senses. But as long as the higher nervous centers remain sound, the hallucinatory impression is by them recognized as such, and known to be a false impression resulting from disease. Now if the nervous centers of the cerebral hemispheres become involved in the disease, there is no power left to correct the hallucination, and insanity is the result.

In what particular part of the brain cortex on the nervous centers of the intellect, and in what part those of emotion, or any other faculty of the mind, is not known, though some advance appears to have been made in that direction by one whose opinions are entitled to the highest consideration.

Professor Schroeder Van der Kolk says: "As the result of many years continued and accurate examinations, I can state that in proper intellectual insanity, invariably the cortical layer under the frontal bone appears

more deeply colored, was more firmly adherent to the pia mater, or was softened. on the other hand, in melancholy, where anxious agitation and sensation of heat and pressure occur, and where the emotions more than the intellect suffer, pathological changes are found rather in the convolutions of the upper and hinder lobes. Thus we come to the conclusion that the cells in the upper and hinder lobes have a different action from those of the anterior lobes; the former bring about emotional feelings." Again the same author, in his chapter on the pathological anatomy of sympathetic mania, substantially repeats the same experience; "Generally, however, in melancholy, especially when it proceeds from the intestines and sexual parts, the vortex and back of the head are most affected, and the anterior part of the hemispheres, under the frontal bones, displays the fewer pathological changes, in proportion as the patient, during his melancholy, has remained free from general intellectual confusion, and apart from his ruling false idea, spoke sensibly. In idiopathic mania these anterior parts of the hemispheres suffer more. But if now by long duration of the melancholy the sympathetic brain affection has at length become idiopathic, and the melancholy passes into mania or dementia, then the brain affection is no longer circumscribed."

I quote these observations of this distinguished contributor to the pathology of mental disease, not so much to bring forth his immatured and unconfirmed views respecting the particular location of the nerve-centers of the intellect and those of the emotions, as to furnish the pathological evidence they afford, that the nerve-cells of the cerebral hemispheres, in the aggregate, constitute the immediate organism by which mental phenomena are produced. Insanity, then, is an affection of the nervous centers of the cortex of the cerebral hemispheres, or, as another physician defines it, "a disease of the brain affecting the mind."

I have noticed one or two points in the anatomy, physiology, and pathology of mind, mainly to show how necessary medical knowledge is to a proper comprehension of insanity. Had I space to consider all its different forms and the Protean shapes each form may assume, the necessity of expert testimony, in all cases of disputed mental condition, would appear still more manifest.

There are two forms of insanity which in criminal cases there is danger of overlooking where it really exists, and of discovering where it does not exist. I allude to the so-called *moral insanity* and *mania transitoria*.

Moral mania is the Gordian knot of the jurisprudence of insanity. It has a bad name, because it has been so often used to shield the wicked from responsibility for their criminal acts. Its very existence is in dispute. The name is not altogether an acceptable one, but as it has been used by the most eminent medical authors ever since the day of Dr. Prichard, the medical witness can neither ignore nor evade it. It is the *mania without delusion* of Pinel; the *reasoning monomania* and the *effective monomania* of Esquirol, and, finally, it received its present unfortunate name of *moral insanity* from Dr. Prichard in eighteen hundred and thirty-five. He defines it as "a morbid perversion of the natural feelings, affections, inclinations, tempers, habits, moral dispositions, and natural impulses, without any remarkable disorder or defect in the intellect, or knowing or reasoning faculties, and particularly without any insane illusion or hallucination."

That insanity may exist without delusion, of a permanent character, is a fact too well established to require any discussion among medical men, though the legal profession is slow to understand it.

We see it sometimes demonstrated in the first stage of the more violent forms of mental disease. The manner of the individual is changed; he feels that all is not right with him; a sense of impending evil oppresses him;

he loses his interest in his business and is unable to apply himself to anything; family and friends fail to interest him, and they sadly whisper that "his mind is not right." This state may be followed by an opposite condition of lively and exalted emotions, before any delusion is manifested. Finally, after weeks and months, or years possibly, insane delusions appear. Now no one can deny that the mind of such a person was just as truly diseased before as after the disease had arrived at the stage of delusion. In the first stage suicide may be feared; in the second, waste of property; in the third, any irrational or violent act that the character of his delusion might lead him to commit. In the first stages the emotions or feelings manifest the unsoundness of mind rather than the intellect.

Metaphysicians as well as physicians regard the emotions as a component part of the human mind. Brown, the successor of Reid and Stewart, and Bain, speak of the *intellect* and the *emotions*, in analyzing the mind into the faculties or attributes of which it is composed.

The mind being thus composed of a union of different faculties, the logical inference is that any one faculty, or set of faculties, is as liable to become the prominent exponent of the mental disease as another; that the emotions, not less than the intellect, may be the seat of morbid action.

There are those who seem to hold the intellect, as long as it presents no marked lesion, responsible for the good government and proper conduct of all the other faculties of the mind. Such a view is inconsistent with the ordinary phenomena of diseased nervous action. Do we not know by every day's experience, that the subordinate nervous centers, under the irritation of disease or certain poisons, revolt and set up a spasmodic independent action; as, for instance, the spinal nerve-centers in tetanus, or under the toxical effects of strychnia?

The emotions, I am satisfied, have their appropriate nerve-cells, although they are not distinguishable. When affected by disease they respond inordinately, or violently and spasmodically, or not at all, to the impressions made by the senses or the ideas. The intellect presents no marked or obvious signs of disease; but a morbid state of the emotions has established a chafing, dominant, tyrannizing power over it, and destroyed the harmonious relations. Without a loss of knowledge, in the excitement and conflict, there is a loss of relative power and control. Reason is not held in permanent and constant subjection, as is the case in fixed delusion; but she is repeatedly assailed, and often overcome, by the riotous outbreaks of the disordered emotions.

These nerve-cells also may lose their sensibility and energy, and not respond to the objects or idea of friendship and love. A cold indifference takes the place of the domestic affections and of social geniality. The sufferer will sometimes appreciate the change and deplore the loss of love for relations the nearest and formerly the most dear. The intellect is not impaired to an extent which prevents it from recognizing the disaster which the feelings have sustained.

Again, overstrained, or by some failure of nutrition and repair they become exhausted. Melancholy is likely to result from this state. The feelings of hope and courage are paralyzed. Darkness and despair brood silently in "ambition's airy hall."

In all these different conditions, and especially in medico-legal investigations, we must, however, keep in view the fact that the mind itself is a unit—a complex entity, made up of the united energies of different organic faculties. The intellect may be utterly incapable, under the influence of disordered emotions, of doing what it might perform, or of declining what it would reject, in a healthy condition of the feelings. With regard

to the action of the mind, therefore, I think we may adopt this as an axiom: If it be disordered in a part it is impaired in the whole.

The mental disorder is the result of pathological change or congenital defect of the somatic structure. It may exhibit itself mainly through either the intellect or the feelings, though it is generally manifested in both.

When insanity is pleaded to avoid responsibility for crime, if there be no marked lesion of the intellect, and especially if it be that form of emotional insanity which is characterized by a perversion of the moral sentiments, great care is required to distinguish between the effect of disease and the result of natural depravity and habitual vice. We must satisfy ourselves of the existence of an abnormal physical condition, as the cause of the mental obliquity. The competent physician can generally do this with as much certainty as appertains to the diagnosis of diseases generally.

The complete change in the character and habits of the individual compared with his former self, the variable and easily accelerated pulse, capillary congestion, or a sickly, palid hue of the skin, the noticeably excited play of the emotions in conversation, manifested by the quickly coming tear, or tremor of the muscles of the face, suspicions and jealousies which frequently amount to temporary delusions, unreasonable views and impracticable schemes, inconsistent with the previous mode of thought and action, a mixture of religious emotion with outrageous immorality, impatience, restlessness, and instability of purpose, insensibility to shame on being detected in shameful or criminal acts, and, in some cases, a periodical exaggeration of all the usual symptoms, resembling in this respect some of the more clearly pronounced forms of insanity, are some of the symptoms of this form of mental disease. Sometimes the pulse is so frequent and easily disturbed that we know there is

disease somewhere ; and the mental change and irregularities refer it to the brain. At length, after years, perhaps, of more or less unsound and disturbed mental condition, the intellect becomes more manifestly impaired, and the disease at last settles down into chronic mania or dementia.

Mania transitoria is another scapegoat of crime. Nevertheless, instantaneous outbreaks of mania, of brief duration, in certain physical conditions, may occur; and in no cases does the law require the aid of medical knowledge more than in these. The public will be incredulous and uncharitable towards the unfortunate person who may have committed a fatal violent assault while in this transient aberration.

This The mania has been too brief to impress itself upon the observation of the community, or more than a very few individuals. It is also rare, and exceptional to the common familiar phenomena of insanity.

Since the well-known conflict in the expert testimony in the Andrews case, the medical literature of our own country and Europe has been pretty well searched for cases of transitory mania, and only between seventy-five and one hundred cases have been found. It does not properly form any distinct class of insanity. There is no uniformity in its character and duration, and no cognition in its causes. Connected with criminal offenses it is more likely to be pretended than real, or nothing more than unrestrained passion. When it really occurs the instantaneous outbreak may take place as the first decided manifestation of a hitherto unobserved incubation of mental disease. In such a case the insanity is not cured by killing a fellow being.

It may occur in epilepsy, taking the place of the ordinary spasm of the motor nerves. In this case we may have a real transitory mania, coming on as suddenly and passing off as quickly as an ordinary attack of epi-

leptic convulsions, with the usual loss of consciousness during its continuance. It may take place in the puerperal state, the cause being obvious. The maniacal attack here is sudden, but it does not pass off so quickly as to deserve the name of transitory.

Injury of the peripheral extremities of the nerves may bring on a sudden attack of mania. The son of an English gentleman, on being called to his breakfast, was heard to get up, but he did not leave his room. The father went to his bed room, where he found him in a maniacal state. He put him to bed, when he became calm and sane. Getting up again, he became crazy and was unable to dress himself, as before. A physician was called in, who, learning these facts, and that he had been swimming the day before, commenced his examination by pressure on the soles of the boy's feet, when at length he brought on another attack of mania. He discovered a piece of silex, or a minute pebble, imbedded in the skin of the sole of his foot, which he extracted, when the boy arose, dressed himself, and was found to be entirely cured of his transitory mania. Thus we see how slight may be the cause, how sudden the attack, how brief the duration, how varied the form, and how simple the cure of mental derangement. Now as I have before observed, these instantaneous outbreaks of mania, *mania transitoria*, belong to no class of insanity. They are only anomalies, or incidents, which may occur in connection with some more permanent disease, or from a wound or a traumatic affection of nerve. In the case of the boy referred to, the reflex irritation, instead of spending its force on the spinal ganglia, producing tetanus, as such injuries sometimes do, passed on up to the supreme nerve-centers, causing mania. Says Caspar. "there is no such peculiar species of mania—no so-called mania transitoria. This unscientific and dangerous term ought not to be employed in practice, and the investigation of each

individual case, according to the general diagnostic criteria, renders it wholly superfluous."

I do not think these cases are generally difficult of diagnosis when they become subjects of medico-legal investigation. The criminal act is so inopportune as to time and place, there is such an absence of provocation, preparation, and motive, that the real cases of this kind are generally readily recognized. There is no insane cunning, or ability to plan, in this form of mania. The subject of it is delirious, or a furious raving maniac for the time being. Consciousness and memory are in abeyance, and his acts, in their direction, bear no evidence of consciousness and design. The cases which have given rise to disputes and doubts are based upon a theory adopted as a defense to criminal prosecutions. For instance, in the case of General Cole, accused of murder at Albany, N. Y., there was not a single element of genuine transitory mania. There was provocation, preparation, seeking and selecting the offending person, and the successful execution of the deed, without any undirected promiscuous demonstration of violence. He was found to be sane just before and just after the killing. The foreman of the jury stated that "they found the prisoner to be sane at the moment before and the moment after the killing, but they were in doubt as to his sanity at the instant of the homicide. The Judge said that they must give the prisoner the benefit of the doubt, and thus instructed they rendered a verdict of acquittal." So in the case of Mrs. Laura D. Fair, the murderess of Gen. Crittenden of San Francisco, California, there was an avowed provocation; the threat, the preparation, the choice of time and place, the selection of the threatened person in a crowd, and the execution of the deed without any general demonstration of undirected violence, or any excess of violence beyond what was necessary to accomplish the act of killing. These cases do not bear the features of transitory or instantaneous mania.

There should be a change in our laws respecting the criminal insane. Upon the acquittal of a person charged with murder, on the ground of insanity, the killing being admitted or proven, it should be the duty of the Judge trying the case to commit such insane homicide, regardless of his mental condition at the time of trial, to an asylum for the insane, where he or she, should be securely kept. And there should be no authority vested in any officer of the asylum to discharge patients of this class by reason of their apparent recovery or sanity. Such a provision of law would render the plea of insanity less frequent and the community more secure.

It is impossible to conceive of anything further behind the age than the mode of obtaining medical knowledge and opinions in our courts of justice. There is no certainty of reaching correct and scientific results by the method practiced. It is not so much the fault of the medical profession as it is of the law. The reasons are :

56 FIRST.—The selection for partisans for experts, instead of competent and impartial physicians.

SECOND.—The inadequate opportunity generally given the physicians for investigation of the case.

THIRD.—And above all, the mode of examination by hypothetical questions, it being impossible for the medical witness to fairly present his opinion to the court and jury by this mode of putting questions.

In reference to the first proposition I assume that it will be admitted that medical witnesses are too often selected on account of the bias they are known to entertain toward the side on which they are called to testify, rather than for their professional qualifications. Ex-parte in the beginning, they necessarily become more and more so in their efforts to sustain a prejudiced and pre-expressed opinion. In the cross-examination the bias becomes so obvious that their testimony justly loses the respect and weight which the opinion of a just

and competent expert ought to carry with it. This evil must necessarily continue as long as the medical witness is procured by counsel, for the lawyer is expected to select such witnesses as will give evidence favorable to his side of the case. He will descend, if need be, in the scale of professional standing until he reaches a point where, as affecting his purpose, he is sure the evidence will be right, even though the witness be wrong.

Every facility should be afforded the medical expert for a thorough investigation of the case upon which his opinion is required. In some instances the most fearful responsibility rests upon him. The life of the individual on whose mental condition he is to decide in a great measure depends upon his opinion, whilst justice waits upon his decision as the lamp to her own. The physician himself, then, he being the best judge, should be authorized to require all the obtainable information and evidence he might deem necessary to the fullest possible understanding of the case in question.

A more awkward and faulty way of arriving at a correct knowledge could hardly be devised than that by which professional information is sought to be obtained from medical witnesses in the courts of the United States and England in cases of disputed mental condition. In almost every important criminal case there are two sets of more or less contradictory facts, produced respectively by the prosecution and the defense, which form the basis of a series of hypothetical questions, to be answered upon the presumption that all the supposed facts are true. The inevitable consequence is that there is an apparent contradiction and a real confusion in the physicians' testimony. Even if the investigation has been full and satisfactory, and the conclusion of the expert, as to the party on trial, be correct and well supported, his opinion in this way cannot possibly be presented to the court and jury in a clear and logical manner. It

must of necessity be little better than an incoherent mass of incongruities, partaking of the contradictory character of the supposed facts. The absurdity of this practice was forcibly illustrated in the case of David Montgomery, tried for murder in Rochester, New York, in eighteen hundred and seventy-one. In this case, the distinguished Dr. W. A. Hammond was called by both the people and the defense. Both sides put to him their hypothetical questions, based upon such portions of the testimony as favored them respectively, which he answered catagorically. The consequence was, notwithstanding the great learning of the witness and his familiarity with these trying situations, there was apparently a dual opinion; or, as a recent reviewer remarks, "a striking conflict between the answers given by Dr. Hammond to the prisoner's counsel and those given to the District Attorney." The fault cannot justly be found in so able, adroit, and self-assured an expert as Professor Hammond. It is in the sleight-of-hand, dissolving views style in which the case was presented to him. And this case affords a fair example of the manner in which such trials are generally conducted with reference to medical testimony. The elements which make up the whole case are separated and scattered, and the medical expert is not permitted to bring them together and present them in the concrete.

To remedy this great evil, which so often results in the perversion of justice and the degradation of the medical profession, should constitute one of the objects and efforts of every organized medical association.

I heartily concur in the suggestion of an eminent Alienist, that medical experts should be appointed by the court, and selected for their professional fitness, their personal integrity, and freedom from bias. Ample time and means should be had for investigation. And their opinions and conclusions should be reported to the court

in full, in writing. This would insure something like a scientific presentation of the subject. It would give something comprehensible and tangible to act upon and refer to. To be sure, the defendant may call the same or other medical witnesses. That is his legal right. It is not to gain an advantage over the unfortunate criminal or prisoner that this change of procedure is advocated; but to reach, if possible, some method of investigating a question of transcendent importance in a scientific way, and of communicating the result in an intelligible manner—to render more valuable and reliable aid to the law and to justice in determining medico-legal question.

Our medical jurisprudence of insanity should be raised from the old rut of English common law. It belongs to the distant past, and has not kept pace with the science upon which it is founded. The German code and practice are far in advance of it. The medical witness there has a scope and authority in the courts similar to what I have suggested as an improvement here.

Witness the results: The courts there are relieved from much of the perplexity, haggling, and blundering which characterize our trials of disputed mental condition in connection with crime; and they are storing up a vast treasure of forensic medical literature from the actual experience and decision of their own official experts. The reports of Casper alone have enriched the literature of forensic medicine more than all that has been preserved, save upon chemical questions, of the testimony of English and American medical witnesses during all time.

I regard this question as a very important one, and I am thoroughly convinced of the unfitness of our laws on this subject; and am certain that a great public good could be accomplished by adopting a different method from that now practiced of obtaining the opinions of physicians in our courts.

Special sciences are not understood nor correctly appreciated by the general community. And, at best, popular favor is but a bubble upon the ocean of life—raised in a moment, and as quickly destroyed by the accidental breeze. It is, therefore, in the respect and esteem of his professional brethren that the physician receives his most grateful and valued honors. And yet, it is not those who fill the necessary offices in the various professional organizations who occupy the most honorable distinction. The highest eminence is self-acquired and independent. It is open to all, and is gained by those who, laboring most faithfully and unselfishly, contribute most ably and liberally to the science, the elevation, and the objects of their profession.

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